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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCHISE

STATE OF ARIZONA,)	No. CR201900461
)	
Plaintiff,)	MOTION TO MODIFY
)	CONDITIONS OF RELEASE
vs.)	
)	(ORAL ARGUMENT REQUESTED)
ANDRES ROMERO FLORES,)	
)	(Hon. Laura Cardinal)
Defendant.)	

Andres Romero-Flores respectfully requests that this honorable Court modify the release conditions that are currently imposed in this case. Mr. Romero-Flores requests that he be released on his own recognizance. This request is supported by Ariz.Const. art. II § 22, A.R.S. § 13-3967, Ariz.R.Crim.P. 7.1-7.5, and the following Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURE FOR MODIFICATION OF RELEASE CONDITIONS

Ariz.R.Crim.P. 7.4(c)(1) states that a defendant's release conditions may be reexamined upon motion of any party.

II. FACTS AND ALLEGATIONS¹

¹ The Facts and Allegations section of this memorandum is offered to summarize the State's allegations against Mr. Romero-Flores. Nothing in this memorandum constitutes an admission, concession, or stipulation.

Mr. Romero-Flores is charged with 4 Counts: 1) Sexual Abuse of a Minor over the age of 15, a class 3 felony; 2) Luring a minor for sexual exploitation, a class 3 felony; 3) Encouraged or contributed to the delinquency of a child, a class 1 misdemeanor; and 4) Encouraged or contributed to the delinquency of a child, a class 1 misdemeanor.

The State alleges that Andres Romero-Flores committed various crimes upon his daughter while she was a minor and in his custody.

Mr. Romero-Flores has been jailed in the Bisbee County Jail for over four months. In that time, based on his health and confinement, his leg has been amputated and he has developed clots, to include his lungs. He has been transported on several occasions to Copper Queen Hospital and Tucson Medical Center.

Mr. Flores is a resident of Arizona and owns a home, 1012 N. Douglas Avenue, Wilcox, AZ 85643.

III. Law

The purpose of any condition of release is to ensure that the accused appears at future court hearings, and to protect the victim, witnesses, and the community. Ariz.Const. Art. II, § 22(b). In addition, Ariz.R.Crim.P. 7.2 states “any defendant charged with an offense bailable as a matter of right must be released pending and during trial on the defendant’s own recognizance”.

Ariz.R.Crim.P. 7.3(c) provides a list of additional conditions that may be imposed to ensure a person’s attendance at future court hearings. A.R.S. § 13-3967(B) provides a non-exhaustive list of items that the Court should consider when imposing release conditions. In this case, the following highlighted considerations weigh in favor of Mr. Davilla:

1. The views of the victim.
2. The nature and circumstances of the offense charged.
3. **Whether the accused has a prior arrest or conviction for a serious, violent, or aggravated felony.**

4. Evidence that the accused poses a danger to others in the community.
5. **The results of a risk or lethality assessment in domestic violence charge that is presented to the court.**
6. The weight of evidence against the accused.
7. The accused's family ties, employment, financial resources, character and mental condition.
8. **The results of any drug test submitted to the court.**
9. **Whether the accused is using any substance if its possession or use is illegal pursuant to chapter 34 of Arizona Criminal Code.**
10. **Whether the accused possessed methamphetamine, or equipment for manufacturing methamphetamine, or manufacturing methamphetamine, or transporting or transferring methamphetamine, or manufacturing methamphetamine that causes physical injury to a minor.**
11. The length of residence in the community.
12. Accused's prior arrests and convictions.
13. Accused's record of appearance at court or of flight to avoid prosecution or failure to appear at court proceedings.
14. **Whether the accused has entered or remained illegally in the United States.**
15. **Whether the accused's residence is in the state, another state, or outside of the United States.**

A.R.S. 13-3967(B).

Additionally, Ariz.R.Crim.P. 7.3 states "if the court determines a monetary condition is necessary" then the court is to apply the "least onerous type of condition in the lowest amount necessary". In the situation at hand, the current condition of \$100,000 bond is not the least onerous.

ARGUMENT

The State has come forward with no evidence from which this Court may infer that Andres Romero Flores will fail to appear, as required, if released. He has a stable, supportive residence available.

CONCLUSION

For the reasons cited above, it is requested that the Defendant's conditions of release be based on his own personal recognizance.

RESPECTFULLY SUBMITTED this 2nd day October, 2019.

RICHARD G. KARVACZKA
COCHISE COUNTY PUBLIC DEFENDER

By


Christopher D. Cazales
Deputy Public Defender

Copy of the foregoing delivered this
2nd day of October, 2019 to:

Hon. Laura Cardinal
Judge of the Superior Court
Bisbee, AZ 85603
via inter-office mail

Lori A. Zucco
Deputy County Attorney
Bisbee, AZ 85603
via inter-office mail

By: 